

Economic Development Advisory Board

Minutes

October 5, 2020

7 – 9 PM held remotely via Zoom

EDAB Board members in attendance: Anne Meyers, Paul Saner, Marilyn Newman, Al Raine, Ken Lewis, Susan Houston, Tom Nally, Alan Christ, Carol Levin (as noted below) & Derrick Choi (arrived later as noted below).

EDAB Board members not in attendance: Don Warner, Cliff Brown

Staff present: Kara Brewton, Meredith Mooney, Victor Panak

Guests included: Anthony Ishak, Jeff Wachter, Michael Zoorob, Alok Somani

Materials provided ahead of time to the Board & via links in the agenda included: Fall 2020 Town Meeting Warrant Articles & Explanations; memo from Patty Correa, First Assistant Town Counsel regarding WA 14 (9/29/2020); Brookline Chamber of Commerce letter regarding WA 14; (10/1/2020); list of questions/concerns from Advisory Subcommittees to EDAB regarding WA 14; clean and redlined version of petitioner's revised language tracked over Advisory Planning & Regulation Subcommittee amended language regarding WA 27; revised petitioner WA 15 draft (10/1/2020 late evening); memo from Patty Correa, First Assistant Town Counsel regarding WA 15 (10/1/2020 & 9/25/2020); memo from Chief Procurement Officer Geanakakis regarding WA 15 (10/1/2020); amended Advisory Subcommittee language on Warrant Article 9; link to February Select Board presentation (2/18/2020); revised draft letter to state legislature endorsing Open Meeting Law changes; original and revised September 14, 2020 meeting minutes; agenda for October 5, 2020 meeting.

Note that in minutes below, recorded votes are noted by initials of each EDAB member

Approval of revised September 14, 2020 meeting minutes

EDAB unanimously approved the revised meeting minutes by roll call vote (MN, PS, TN, AC, KL, SH, AR, AM).

Review and approval of revised letter endorsing state Open Meeting Law changes permitted during COVID-19 to become permanent changes, as requested by Brookline Commission for Women & MA Commission on the Status of Women

EDAB unanimously approved the revised letter Anne Meyers prepared by roll call vote (MN, PS, TN, AC, KL, SH, AR, AM). Anne clarified that the letter would be updated with a current date and written to all local legislators.

[Carol Levin joined the meeting].

Public Hearing & Vote on Warrant Article 14, amendments to General By-laws regarding tobacco

Anthony Ishak presented Warrant Article 14 and clarified that the petitioners were no longer seeking a cap to the size of an establishment that can sell tobacco products.

Anne Meyers opened the public hearing; nobody from the public spoke.

During the discussion of this warrant article, EDAB members confirmed that the petitioners had not sought any feedback from the business community.

[Carol Levin had to leave for another meeting].

The Human Services Subcommittee of the Advisory Committee also asked the petitioner to seek advice from EDAB on the “three strikes” language relating to when the Town should revoke a tobacco license. EDAB members clarified that while the petitioner compared “three strikes” policies regarding infractions towards related to state professional licenses or drivers’ licenses, the petitioner did not look at how the Town issues sanctions at a local licensing level such as alcohol or marijuana. Economic Development Director Brewton suggested that the petitioner consider moving any sanction language to a regulation, rather than within the bylaw, similar to the licensing of restaurants that serve alcohol on premises. This language includes the requirement to discuss the severity and past history of infractions as well as making a finding following a hearing or reasonable opportunity with the business.

Anne Meyers closed the public hearing and EDAB...

VOTED: To recommend “no action” regarding Warrant Article 14 (6-2-0) by roll call vote (TN, PS, SH, AR, MN, AM in favor; AC & KL against).

Public Hearing & Vote on Warrant Article 27, amendments to Zoning By-laws regarding micro-units

Michael Zoorob presented WA 27, noting that prior to 2016, microunits were permitted in Town, as they were not defined as a subset of residential units. When the Emerald Island Overlay District was approved, microunits became a prohibited use type in all areas of Town other than in the Emerald Island Overlay District. Mr. Zoorob noted that the petitioners were no longer moving forward the warrant article language related to parking incentives, as they expected those incentives to be incorporated into a larger article in the Spring related to fossil fuel free buildings.

Anne Meyers opened the public hearing; nobody from the public spoke.

During the discussion of this article, some EDAB members voiced mixed opinions about whether, in a future warrant article, parking requirements for microunits should be removed all together. Individuals cautioned the petitioner in assuming that microunit construction would necessarily be cheaper to build, given the numbers of plumbing stacks and other core utility equipment that must be included in every dwelling unit. Nonetheless, all EDAB members agreed that microunits should be permitted.

The Planning & Regulation Subcommittee of Advisory voted to amend the warrant article such that microunits would not be allowed in the SC, T, F, or L zoning districts. At that time, the Building Commissioner's standing zoning interpretation communicated by Planning staff was that the definition of microunits as a use was applied to the building type, not at the dwelling unit level. For example, under the existing zoning, a three-family building would still be allowed to have one microunit, as it is not a majority of the building use. Under this construct, the effect of the petitioner's warrant article would be to also permit buildings that were *primarily* microunits, which the Subcommittee did not think appropriate in less in dense zoning districts. Independent of the warrant article language, at the time of the Subcommittee vote the understanding was that individual microunits could still be built in all but single-family zoning districts.

Following the Advisory Subcommittee and full Advisory votes, Town Counsel advised the Building and Planning Departments that our existing zoning by-law should be interpreted such that even individual microunits would not be permitted.

Anne Meyers closed the public hearing and EDAB...

VOTED: To recommend favorable action on Warrant Article 27, with an amendment that deletes Paragraph 2 of the Warrant Article (relating to parking incentives) in its entirety (8-0-0) by roll call vote (TN, PS, SH, AR, MN, AM, AC & KL in favor).

Public Hearing & Vote on Warrant Article 34, resolution regarding an increase in housing and related strategies in Brookline

Jeff Wachter presented this WA. Consistent with the version voted by Advisory, the Proponent's amended version deleted reference to a specific housing production goal, with that to be determined as part of the renewal of the Town's Housing Production Plan.

Anne Meyers opened the public hearing; nobody from the public spoke.

Marilyn Newman especially appreciated that the original language in paragraph 1 relating to a multi-prong planning study was now struck, as the listing of specific considerations could inadvertently leave out other considerations such as balancing housing needs with sites that are particularly suited for commercial development opportunities, or existing businesses that bring vibrancy to our commercial areas. She and other EDAB members agreed that all planning processes should, at least to some degree, take into account all of the Town's public policy goals. Following further discussion, the petitioner offered adding a phrase in paragraph 2 to make clear that mixed-use commercial development should be incorporated into potential "zoning and regulatory changes," rather than only calling for exclusively housing development.

[Derrick Choi arrived].

Anne Meyers closed the public hearing and EDAB...

VOTED: To recommend favorable action on an amended Proponent's version of Warrant Article 34, with an additional phrase at the end of paragraph 2 as follows: "...and consistent with promotion of mixed-used development in commercial corridors that incorporates housing components." (8-0-1) by roll call vote (TN, PS, SH, AR, MN, AM, AC & KL in favor; DC abstained as he arrived towards the end of the discussion).

Public Hearing & Vote on Warrant Article 15, amendments to General By-laws to create a Disadvantaged Business Enterprise Program

Anne Meyers opened the public hearing; nobody from the public spoke.

Deborah Brown is the main point of contact, but due to unforeseen circumstances, was not able to join the EDAB public hearing. Economic Development staff offered to share a revised version the petitioner circulated earlier that morning on October 5th, which addressed all of Town Counsel's legal concerns, but EDAB did not feel comfortable taking a vote on specific language without the petitioner there for a more robust conversation. Paul Saner also noted that he had told the petitioner that he would like to see this warrant article expanded to include people that have disabilities since there are such things as disability business enterprises, and he didn't know why the Town wasn't considering that.

Anne Meyers closed the public hearing and EDAB...

VOTED: "EDAB is generally supportive of establishing a DBE program and recommends referring the subject matter to the Select Board with a report back on a plan for implementation no later than the Annual Town Meeting (Spring 2021)." (9-0-0) by roll call vote (TN, PS, SH, AR, MN, AM, AC, KL, & DC in favor).

Public Hearing & Vote on Warrant Articles 9, 10, & 11; amendments to Zoning & General By-laws to regulate and enforce Short-Term Rentals

Victor Panak presented these three warrant articles on behalf of the Select Board. Staff from Building, Fire, Health, Police, Legal, and Select Board's Office have worked together in creating the comprehensive program described in these three articles. This work also included conversations with hotels and inns, condominium owners and property managers, short-term rental operators, and a general forum with residents. In the meantime, the current interpretation that our existing zoning by-law not permitting short-term rentals is being contested by a resident in the court.

Anne Meyers opened the public hearing; nobody from the public spoke.

Because the specific fees are not set in the Warrant Articles, Town staff believes that by legalizing some short-term rentals the Town will be able to offset the cost of enforcement, which today is very limited and based on a complaint-driven system, prioritizing those that are related to serious health and safety concerns. Paul Saner added that over the last 12 months the Town collected a little more than \$400,000 of short-term rental taxes (indirectly through the state). EDAB members described how as consumers of

short-term rentals nationally, they have noticed more and more sites that list the registered license number, which gives one a sense that there is at least some marginal consumer protection as well as periodic safety checks of the units being offered.

While EDAB discussed the Planning & Regulation Subcommittee's amendments to prohibit short-term rentals by renters, adjacent unit owners (such as in 2- or 3-family homes), and home share rentals (renting out the entire unit), EDAB ultimately concluded that: (i) any nuisance issues could likely be reasonably mitigated rather than leaving in place the present murky illegal use complaint driven approach; and (ii) the restriction that units can only be rented less than half a year would likely put some illegal short-term rentals back on the rental or condo market.

Anne Meyers closed the public hearing and EDAB...

VOTED: to recommend favorable action on Warrant Articles 9, 10, and 11 as submitted by the Select Board, with an amendment to Warrant Article 9 that also requires individual approval of all condo owners for condo associations that are 4 or fewer as drafted by Planning & Regulation Subcommittee of Advisory. (9-0-0) by roll call vote (TN, PS, SH, AR, MN, AM, AC, KL, & DC in favor).

For reference, EDAB recommends Warrant Article 9 be only amended to insert a new sentence as 5.11.4.1.d as follows: "Where a Short-Term Rental Unit is part of a four (4) unit or less condominium association, certification by all unit owners in the Short-Term Rental Operator's condominium association that they consent to the operation of a Short-Term Rental." and then rennumbers the original paragraph "d" as "e".

At approximately 9:02 pm, the meeting ended.

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